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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,433	07/21/2003	Brian K. Ellenberger	71198-0064	1432
20915	7590	05/05/2006	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			CHAPMAN, JEANETTE E	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/604,433	Applicant(s) ELLENBERGER, BRIAN K.	
	Examiner Chapman E. Jeanette	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 and 86-111 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 and 86-111 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>patnet copies with annotations</u> .   |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 14-15, 25-31, 41-45, 86, 100-103 are rejected under 35 U.S.C. 102(b) as being anticipated by Hendrich (3863419). Hendrich discloses a dormer 12 attached to a roof portion of a structure comprising:

- I. A girder frame having a pair of spaced elongated rails 20 and 22
- II. The girder frame is configured to be in register with an opening in an angled portion of the roof when the girder frame is mounted to the roof
- III. A front frame 36 mounted to the girder frame
- IV. The front frame is configured to be positioned in a vertical orientation when the girder frame is mounted to the roof
- V. A top frame 26, 28 mounted to the front frame
- VI. The top frame 26, 28 is configured to form a roof for the dormer 12
- VII. The girder frames, the front frame, the top frame are pivotally mounted to one another between first, lowered positions and a second finished position by pivots 32, 44 and 52

- VIII. The girder frame is interconnected to the roof, the front frame is interconnected to the girder frame and the top frame is interconnected to the girder frame
- IX. A hinge 52 and one near 114 attached to the dormer to pivotally mount the dormer 12 to the roof portion of the structure 14 between a collapsed and raised position
- X. A hinge portion mounted to a base of the girder frame and apted to be mounted to the roof 12 portion of the structure 14 between first lowered position and a second raised position
- XI. The girder is provided with hinge 52 to be located an in register with an opening in the roof portion of the structure 14
- XII. The front frame 38 is pivotally mounted to a lower portion the girder frame between first, lowered position and a second finished position. See column 4, line 5 through column 4, line 5
- XIII. The top frame is pivotally mounted to an upper portion of the girder frame between first, lowered position and a second finished position by pivotal attachment 32.
- XIV. The top frame is pivotally mounted to the front frame between a first lowered position and a second finished position. See element 44 and accompanying text
- XV. The front frame and the top frame are pivotally interconnected by hinge 44
- XVI. The front frame is pivotally mounted to a lower portion of the girder frame

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-13, 16-24, 32-40, 46-54, 87-99 and 105-111 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrich in view of Sloditskie et al (5209030). Hendrich lacks the top frame with a plurality of first and second truss each pivotally mounted to the frame.

SL discloses

- a girder frame 14,18
- a top frame 30
- a front frame 12
- a plurality of trusses, first and second pivotally mounted to top frame 30 between a first lowered position and a second raised position; see figures 2 and 3 and annotations on patent copy. the top frame can be easily transported in a low volume as shown in figure 2 when the first and second truss members are positioned in the first lowered position.
- A top frame ridge board 20 to be mounted to the truss in the raised position

- A finishing frame mounted between the top frame 30 and the roof portion 20; see annotations on patent copy
- Side frame members 54,56,42 mounted between an upper surface of the guider frame and a lower portion of the front wall and the top member; the side frame members form a vertical wall. See figure 5
- The side frame members are mounted to the dormer after all components have been raised to the second finished position
- A knee wall chord 50 holding the dormer assembly in the second position
- A knee wall chord attached to the girder frame at a central portion; see figure 4; the knee wall cord 50 is mounted to the girder frame between the top frame 30 and the front frame 22
- The knee wall is not pivotally attached but it would be facilitating to do so via the pivoting attachment used with the other member
- Floor trusses 38

Therefore, it would have been obvious to add the pivotally joined peaked truss member to the top frame of Hendrich providing more storage and ventilation space and making the entire structure easier to store and transport and to provide the finishing frame, knee chords and side frame and floor joist to strengthen the finished structure. Hendrich discloses a top frame ridge board 30. The ridge boards would obviously be attached to the truss in the raised position.

Applicant's arguments are moot in view of the new ground of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JEANETTE E. CHAPMAN  
PRIMARY EXAMINER  
ART UNIT 3635

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